

AMENDING SECTION 501 OF THE TRANSPORTATION
ACT, 1920.

DECEMBER 15, 1920.—Referred to the House Calendar and ordered to be printed.

Mr. ESCH, from the Committee on Interstate and Foreign Commerce,
submitted the following

REPORT.

[To accompany H. R. 14674.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 14674), to amend section 501 of the transportation act, 1920, having considered the same, report thereon with a recommendation that it pass.

This bill seeks to amend section 501 of the transportation act, 1920. This section is as follows:

SEC. 501. The effective date on and after which the provisions of section 10 of the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, shall become and be effective is hereby deferred and extended to January 1, 1921: *Provided*, That such extension shall not apply in the case of any corporation organized after January 12, 1918.

Section 10 of the Clayton Act the effective date on and after which its provisions are to become effective after January 1, 1921, is as follows:

SEC. 10. That after two years from the approval of this act no common carrier engaged in commerce shall have any dealings in securities, supplies, or other articles of commerce, or shall make or have any contracts for construction or maintenance of any kind, to the amount of more than \$50,000, in the aggregate, in any one year, with another corporation, firm, partnership, or association when the said common carrier shall have upon its board of directors or as its president, manager, or as its purchasing or selling officer, or agent in the particular transaction, any person who is at the same time a director, manager, or purchasing or selling officer of, or who has any substantial interest in, such other corporation, firm, partnership or association, unless and except such purchases shall be made from, or such dealings shall be with, the bidder whose bid is the most favorable to such common carrier, to be ascertained by competitive bidding under regulations to be prescribed by rule or otherwise by the Interstate Commerce Commission. No bid shall be received unless the name and address of the bidder or the names and addresses of the officers, directors, and general managers thereof, if the bidder be a corporation, or of the members if it be a partnership or firm, be given with the bid.

Any person who shall, directly or indirectly, do or attempt to do anything to prevent anyone from bidding or shall do any act to prevent free and fair competition among the bidders or those desiring to bid shall be punished as prescribed in this section in the case of an officer or director.

Every such common carrier having any such transactions or making any such purchases shall within thirty days after making the same file with the Interstate

Commerce Commission a full and detailed statement of the transaction showing the manner of the competitive bidding, who were the bidders, and the names and addresses of the directors and officers of the corporations and the members of the firm or partnership bidding; and whenever the said commission shall, after investigation or hearing, have reason to believe that the law has been violated in and about the said purchases or transactions it shall transmit all papers and documents and its own views or findings regarding the transaction to the Attorney General.

If any common carrier shall violate this section it shall be fined not exceeding \$25,000; and every such director, agent, manager, or officer thereof who shall have knowingly voted for or directed the act constituting such violation or who shall have aided or abetted in such violation shall be deemed guilty of a misdemeanor and shall be fined not exceeding \$5,000, or confined in jail not exceeding one year, or both, in the discretion of the court.

The transportation act of 1920 was approved February 28, 1920, of this year. Shortly thereafter a bill amending section 10 of the Clayton Act was introduced in the Senate and was referred by the appropriate committee of that body to the Interstate Commerce Commission for a report. Owing to the pressure of business before the commission, caused by the enactment of the transportation act of 1920, the forwarding of a report was overlooked and it was impossible for the Senate committee to take action prior to the expiration of the second session of this Congress, June 5. It was impossible for either Senate or House committee having the legislation in charge to secure action on an amendment of section 10 of the Clayton Act prior to January 1, 1921, when the year's extension granted in section 501 of the transportation act expired. In view of the necessity of some material amendment of section 10 of the Clayton Act, your committee deems it necessary to ask for a further extension by the passage of the pending bill. The committee is of the opinion as a result of the hearings held that the carrying into effect of the existing provisions of section 10 of the Clayton Act will result in needless expenditures on the part of carriers in many instances; that some of its provisions are unworkable, and that the changed status of the carriers and the enactment of the transportation act require a revision of section 10 in order to make it consistent with provisions of the transportation act.

There is herewith submitted a report received from Commissioner Hall, of the Interstate Commerce Commission, to the effect that the commission had no objection to offer to the extension proposed in the pending bill.

INTERSTATE COMMERCE COMMISSION,
Washington, December 13, 1920.

HON. JOHN J. ESCH,
*Chairman Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

MY DEAR MR. ESCH: The legislative committee of the commission has carefully considered bill H. R. 14674, to amend section 501 of the transportation act, 1920, so as to extend the effective date of section 10 of the Clayton Antitrust Act to January 1, 1922, which was submitted with your letter of December 11, 1920, to the chairman of this commission.

I am authorized to say on behalf of the legislative committee that in the light of the difficulties encountered in the application of section 10 and of our understanding that because of changed conditions counsel for the carriers are considering proposals for other legislation in this regard which would seem better adapted to present needs the committee has no objection to offer to the proposed extension.

Very truly, yours,

HENRY C. HALL, *Commissioner.*